

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Jason Smith,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 13-77-0138
Parcel No. 181/00532-224-441

On November 8, 2013, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Jason Smith is self-represented and requested his appeal proceed without a hearing. Assistant County Attorneys Ralph Marasco, Jr. and David Hibbard represent the Board of Review. The Appeal Board now, having examined the entire record and being fully advised, finds:

Findings of Fact

Jason Smith is the owner of property located at 714 NE Georgetown Court, Ankeny, Iowa. The real estate was classified residential on the January 1, 2013, assessment and valued at \$519,400, representing \$95,200 in land value and \$424,200 in improvement value. Smith protested the assessment to the Polk County Board of Review on the grounds the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a)(1); the property was assessed for more than authorized by law under section 441.37(1)(a)(2); and that there was an error in the assessment under section 441.37(1)(a)(4). Smith contended the error was in the measurement of the living area. Smith believed the correct value was \$390,000. The Board of Review

granted his request, in part, reducing the assessed value of the subject property to \$508,500, representing \$90,000 in land value and \$418,500 in improvement value.

Smith then appealed to this Board reasserting his claim of error.

According to the property record card, Smith's property is two-story home built in 2001. It has 4870 square feet of above-grade living area and 1384 square-foot basement of which 1100 square feet has average plus finish. The property has a small open porch, a patio, and a deck. It also has a three-car attached garage. The property is listed as excellent quality grade (1+00) and in normal condition. The subject site is 0.725-acres. The record also indicates Smith purchased the subject property in March 2013 for \$520,000.

Smith's primary contention is that a 1300 square-foot gym on the main level of the home should not be considered living area. He believes including the gym as living area is an error that results in an over-assessment. Smith does not explain how he believes it should be valued. Other than Smith's statement on his petition to this Board, "Assessment is not correct. The measurement on main floor is 1500 square feet not 2800 square feet", he provides no other evidence to support his claim.

The Board of Review appraiser analysis indicates a full inspection was completed on the subject property by the Assessor's Office. At that time, the property was re-measured and the person completing the inspection found the original measurements and calculations were correct.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds

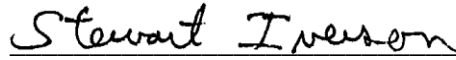
presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

The plain language of section 441.37(1)(a)(4), on which the taxpayer rests his claim, allows a protest on the ground "[t]hat there is an error in the assessment." § 441.37(1)(a)(4). This section is not limited solely to clerical or mathematical errors. Smith asserts the gym should not be included in the living area calculation. However, he does not explain how the gym should be listed or the value that should be attributed to it. We, therefore, cannot conclude there is an error in the assessment.

THE APPEAL BOARD ORDERS the assessment of the Jason Smith's property located at 714 NE Georgetown Court, Ankeny, Iowa, is affirmed with a total value of \$508,500 as of January 1, 201

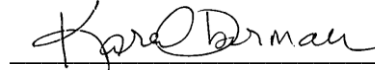
Dated this 4th day of December, 2013.



Stewart Iverson, Presiding Officer



Jacqueline Rypma, Board Member



Karen Oberman, Board Member

Copies to:
Jason Smith
714 NE Georgetown Ct.
Ankeny, Iowa 50021
APPELLANT

David Hibbard/Ralph Marasco
111 Court Avenue
Room 340
Des Moines, Iowa 50309
ATTORNEY FOR APPELLEE